

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD.

SPECIAL CIVIL APPLICATION No 496 of 1989

For Approval and Signature :

Hon'ble MR. JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the Judgment ?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the Judgment?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

RAVJI MAVJI BHANDERI
VERSUS
STATE OF GUJARAT

Appearance:

MR CH VORA for the Petitioner
MR VM PANCHOLI, AGP, for Respondents

CORAM : MR JUSTICE S.K. KESHOTE
Date of Decision : 27/04/2000

C.A.V. JUDGMENT

1. The Collector, Kutch under its order dated 14th February, 1987 ordered for confiscation of 1600 kgs. of

groundnut of the petitioner under the provisions of Essential Commodities Act, 1955. This order has been challenged by the petitioner in the appeal filed before the State Government. This appeal came to be decided by the Deputy Secretary, Food & Civil Supplies Department, Sachivalaya, Gandhinagar under the order dated 4th July 1988 and the same has been rejected. Hence, this special civil application in this court under Article 226 or 227 of the Constitution.

2. The Inspector of Supplies Department of Bhuj in presence of panchas, inspected the house of one Amad Hasam Node at Rampur, Taluka Mandavi and found these 250 bags of groundnut weighing about 100 quintals. On inquiring from Amad Hasam Node, he has informed that these bags of the groundnut belong to the petitioner. He further stated that he has let out his house to the petitioner. The petitioner submitted his reply to the Inspector on 8-1-1987 and given out therein that he is staying at Rampur. He owns piyat land at village Sarali. He had cultivated groundnut in the land at Village Sarali and had kept 250 bags of groundnut produce in the rented house of Amad Hasam Node. In addition to this he had also stored other loose groundnut in his house weighing about 90 muns and he has given out explanation that he has not sold groundnut as at that time to get proper price thereof was difficult. Thus on investigation 340 bags of groundnut weighing 136 quintals is found with the petitioner. For this quantity, no explanation or evidence has been produced by the petitioner at the time of investigation and hence 340 bags of groundnut weighing 136 quintals were being seized. The petitioner vide application dated 12th January, 1987 prayed for release of the seized groundnut bags. The Collector found that at the most the produce from the land of the petitioner could have been of 300 muns groundnut and not of the quantity to the extent what it is found in possession of the petitioner. As a result of this finding, 1600 kgs of groundnut was ordered to be confiscated. The appellate court confirmed the judgment of the Collector.

3. Only contention raised by the learned counsel for the petitioner is that the agriculturists does not fall under the category of dealer and the provisions of Essential Commodities Act, 1955 are not applicable. In continuation of this contention, it is contended that it was an agricultural produce of the petitioner and the Collector has also accepted it but it has committed a serious illegality in only accepting the agricultural produce of the petitioner to the extent of 300 bags of

groundnut. Once it is accepted what Shri Vora contends that the groundnut has been produced by the petitioner in his agricultural land for little bit quantity which has been arrived at in excess of the actual produce on the basis of estimate etc. could not have been taken to be so serious to the extent to pass the order of confiscation.

4. Learned counsel for the respondents, on the other hand, contended that all the agriculturists are not exempted from the applicability of the provisions of Essential Commodities Act, 1955. He read out the relevant provisions from the Essential Commodities Act, 1955. It has next been contended that the very fact that the petitioner was keeping the produce at different place in rented house goes to show that he deals in sale and purchase of this groundnut.

5. I have given my thoughtful consideration to the rival contentions made by the learned counsel for the parties.

6. It is not the case where all the agriculturists are exempted from the clutches and applicability of the provisions of Essential Commodities Act, 1955. Where the agriculturists are found to be indulging in the activities of sale and purchase of the Essential Commodities certainly appropriate action can be taken against them. In this case, on the basis of the material which has come on the record, I am satisfied that the petitioner is involved in the activities of sale and purchase of the essential commodity i.e. groundnut and rightly both the authorities have concurrently held against him. The order of confiscation of 1600 kgs of groundnut does not suffer from any infirmity, which calls for the interference of this court under Article 226 or 227 of the Constitution. The substance of the matter has to be considered and if we go by that I fail to see what for the petitioner, if he would have been really an agriculturist and not involved in sale and purchase of groundnut to retain the produce for such a long period. The storing of this produce in the rented house is another circumstance which goes against the petitioner. The orders passed by the authorities below are not perverse which calls for the interference of this court under its extraordinary jurisdiction.

7. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this court stands

vacated. No order as to costs.

zgs/-